

HOUSE No. 2921

By Mr. Ayers of Quincy, petition of Bruce J. Ayers and John W. Scibak relative to deceptive actions perpetrated against elderly and disabled persons. Elder Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT INCREASING THE PENALTIES FOR UNFAIR AND DECEPTIVE ACTIONS
PERPETRATED AGAINST PERSONS WITH DISABILITIES AND SENIOR CITI-
ZENS.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 29 of the General Laws is hereby
2 amended by inserting, after Section 20O, as inserted by
3 section 50 of chapter 43 of the Acts of 1997, the following new
4 section:—

5 Section 2PP. There is hereby established and set up on the
6 books of the commonwealth a separate fund to be known as the
7 Senior Citizens and Disabled Persons Abuse Prevention Fund.
8 There shall be credited to said fund all revenues which are gener-
9 ated under the provisions of section 4 of chapter 93A which are in
10 excess of any such revenues which were collected during each
11 fiscal year. Amounts credited to said fund shall be available for
12 expenditure, subject to appropriation, to

13 (1) prepare and distribute educational materials to inform
14 senior citizens, disabled persons and other citizens of the com-
15 monwealth regarding consumer protection laws and consumer
16 rights that are of particular interest to senior citizens or disabled
17 persons, and

18 (2) to underwrite educational seminars and other forms of edu-
19 cation and projects designed to explain deceptive investment or
20 marketing practices which have historically targeted senior citi-
21 zens and disabled persons.

1 SECTION 2. Section 1 of Chapter 93A of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 adding the following paragraphs:—

4 (e) “Senior Citizen”, a person who is at least 65 years of age.

5 (f) “Persons with disabilities”, a person who has a physical or
6 mental impairment which substantially limits one or more funda-
7 mental life activities. For the purposes of this paragraph, “physical
8 or mental impairment” shall include such diseases or conditions as
9 orthopedic, visual, speech and hearing impairment, cancer, heart
10 disease, diabetes, mental retardation, and emotional illness; “fun-
11 damental life activities” shall include activities such as caring for
12 one’s self, performing annual tasks, walking, seeing, hearing,
13 speaking, breathing, learning and working.

1 SECTION 3. Section 4 of chapter 93A of the General Laws, as
2 so appearing, is hereby amended by adding the following at the
3 end of the first paragraph:—

4 “The court may also require such person to pay to the Com-
5 monwealth an additional civil penalty of not more than two thou-
6 sand five hundred dollars for each such violation if the court finds
7 that each violation was perpetrated against one or more senior cit-
8 izens or persons with disabilities.

9 In determining whether to impose the additional civil penalty
10 pursuant to this section and the amount thereof, the court shall
11 consider, in addition to any other appropriate factors, the extent to
12 which one or more of the following factors are present:

13 (1) Whether the defendant knew or should have known that his
14 or her conduct was directed at one or more senior citizens or per-
15 sons with disabilities.

16 (2) Whether the defendant’s conduct caused one or more senior
17 citizens or persons with disabilities to suffer: loss or encumbrance
18 of a primary residence, principal employment, or source of
19 income; substantial loss of property or assets set aside or held for
20 retirement or for personal or family care and maintenance; sub-
21 stantial loss of payments received under a pension or retirement
22 plan or a government benefits program; or assets essential to the
23 health or welfare of the senior citizens or persons with disabilities.

24 (3) Whether one or more senior citizens or persons with disabil-
25 ities are substantially more vulnerable than other members of the

26 public to the defendant's conduct because of age, poor health or
27 infirmity, impaired understanding, restricted mobility, or dis-
28 ability, and actually suffered substantial physical, emotional or
29 economic damage resulting from the defendant's conduct."